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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/799,340	03/12/2004	Doug Wroblewski	0644-032407	6222
28289	7590	01/10/2008	EXAMINER	
THE WEBB LAW FIRM, P.C. 700 KOPPERS BUILDING 436 SEVENTH AVENUE PITTSBURGH, PA 15219			KENNY, DANIEL J	
			ART UNIT	PAPER NUMBER
			3633	
			MAIL DATE	DELIVERY MODE
			01/10/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/799,340

Applicant(s)

WROBLEWSKI, DOUG

Examiner

Dan Kenny

Art Unit

3633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 June 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-9, 11-17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6, 7, 11-16 and 19-22 is/are rejected.
- 7) ☐ Claim(s) 8, 9 and 17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Interview Summary

A personal interview was held on August 29, 2007. Proposed amendments to specific claims were discussed, but allowability of the amended claims could not be discussed considering, inter alia, the current Examiner did not do any of the previous Office actions. Examiner agreed that certain claims had been allowed in the previous Office action, but the allowability of these claims could of course be subject to withdrawal upon examination by the present, new Examiner.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-4, 6, 7, 20, and 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Sondrup (6,269,495).

Sondrup discloses a drain comprising:

Claim 1 - a drain body (18, 20) defining a drain cavity (22);

a frame (14 and se) having a securable end (se) received by said drain body and an exposed end (ee), said frame being rotatable relative to said drain body for adjusting the position of said frame exposed end;

a clamp (16, 24) for fixing said securable end of said frame to said drain body; and

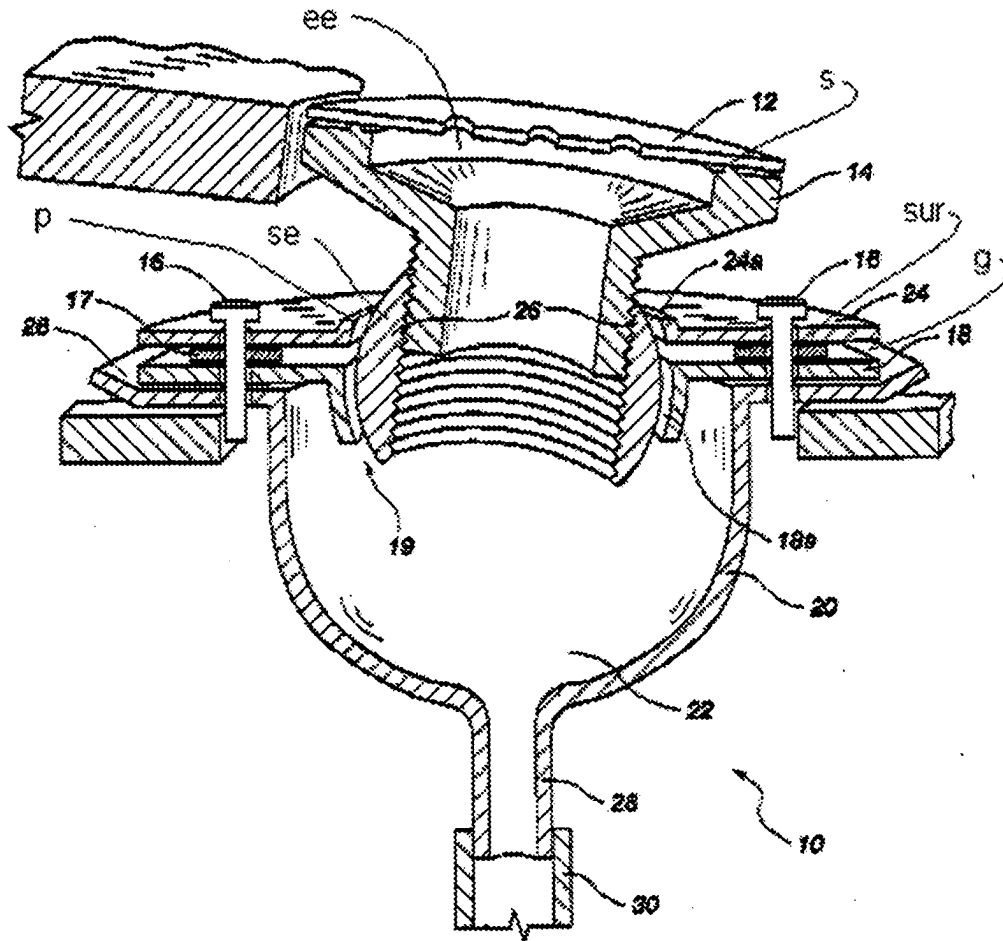
a grate (12) received by said exposed end of said frame, wherein said drain body comprises a ledge (18a) having a sloped surface, said frame securable end slidably engaging said surface of said sloped surface of said ledge when said frame is rotated relative to said drain body.

Claims 2 and 21 – The frame securable end is circular.

Claims 3, 4, and 20 – The frame exposed end may have any shape (col. 4, lines 32 and 33).

Claim 6 – The frame exposed end comprises a seat (s), said grate being fixed to said seat.

Claim 7 – the clamp comprises a clamp body having a protrusion (p) for clamping said frame securable end to said drain body.



Annotated Fig. 1 (U.S. Pat. 6,269,495)

Claim Rejections - 35 USC § 103

Claims 11-16, 19 and 22 - are rejected under 35 U.S.C. 103(a) as being unpatentable over Sondrup.

Claims 11-16 - are an obvious method of using the drain of Sondrup.

Claim 19 - Sondrup discloses all the claimed elements as described above, including the clamp body comprising a drain body engaging surface (sur)

providing a gap (g) between a portion of the drain body engaging surface and the drain body. The "sloped" limitation is considered a matter of design choice, as Applicant's specification gives the sole purpose of such slope as providing "a circular or annular surface along which the frame may be rotated", the equivalent Sondrup surfaces providing the same function equally well.

Allowable Subject Matter

Claims 8, 9, and 17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dan Kenny whose telephone number is (571) 272-9951. The examiner can normally be reached on Monday thru Friday, 9 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on (571) 272-6777

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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1/7/2008

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DK *DK*

1/7/2008


Jeanette Chapman
Primary Examiner